



Sen. John J. Millner

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1 AMENDMENT TO SENATE BILL 1701

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1701 by replacing  
3 the title with the following:

4 "AN ACT concerning criminal law, which may be referred to  
5 as the Emergency Medical Services Access Law.

6 WHEREAS, Drug-overdose deaths are the second leading cause  
7 of accidental death in the nation and deaths have increased  
8 significantly in recent years, in both the Chicago Metropolitan  
9 Area and across Illinois; and

10 WHEREAS, The General Assembly finds that drug-overdose  
11 deaths could be substantially decreased if immunity from  
12 criminal prosecution for Class 4 felony violations of the  
13 Illinois Controlled Substances Act and Class 3 felony  
14 violations of the Methamphetamine Control and Community  
15 Protection Act were granted to a person possessing a small  
16 amount of the drug who, in good faith seeks emergency medical

1 assistance for someone experiencing a drug-related overdose  
2 and if this immunity were granted for the same Class 4 felony  
3 violations of the Illinois Controlled Substances Act and the  
4 Class 3 felony violations of the Methamphetamine Control and  
5 Community Protection Act to a person who is experiencing a  
6 drug-related overdose; therefore"; and

7 by replacing everything after the enacting clause with the  
8 following:

9 "Section 5. The Illinois Controlled Substances Act is  
10 amended by adding Section 414 as follows:

11 (720 ILCS 570/414 new)

12 Sec. 414. Overdose; limited immunity from prosecution.

13 (a) For the purposes of this Section, "overdose" means a  
14 controlled substance-induced physiological event that results  
15 in a life-threatening emergency to the individual who ingested,  
16 inhaled, injected or otherwise bodily absorbed a controlled,  
17 counterfeit, or look-alike substance or a controlled substance  
18 analog.

19 (b) A person who, in good faith, seeks or obtains emergency  
20 medical assistance for someone experiencing an overdose shall  
21 not be charged or prosecuted for Class 4 felony possession of a  
22 controlled, counterfeit, or look-alike substance or a  
23 controlled substance analog if evidence for the Class 4 felony

1 possession charge was acquired as a result of the person  
2 seeking or obtaining emergency medical assistance and  
3 providing the amount of substance recovered is within the  
4 amount identified in subsection (d) of this Section.

5 (c) A person who is experiencing an overdose shall not be  
6 charged or prosecuted for Class 4 felony possession of a  
7 controlled, counterfeit, or look-alike substance or a  
8 controlled substance analog if evidence for the Class 4 felony  
9 possession charge was acquired as a result of the person  
10 seeking or obtaining emergency medical assistance and  
11 providing the amount of substance recovered is within the  
12 amount identified in subsection (d) of this Section.

13 (d) For the purposes of subsections (b) and (c), the  
14 limited immunity shall only apply to a person possessing the  
15 following amount:

16 (1) less than 3 grams of a substance containing heroin;

17 (2) less than 3 grams of a substance containing  
18 cocaine;

19 (3) less than 3 grams of a substance containing  
20 morphine;

21 (4) less than 40 grams of a substance containing  
22 peyote;

23 (5) less than 40 grams of a substance containing a  
24 derivative of barbituric acid or any of the salts of a  
25 derivative of barbituric acid;

26 (6) less than 40 grams of a substance containing

1 amphetamine or any salt of an optical isomer of  
2 amphetamine;

3 (7) less than 3 grams of a substance containing  
4 lysergic acid diethylamide (LSD), or an analog thereof;

5 (8) less than 6 grams of a substance containing  
6 pentazocine or any of the salts, isomers and salts of  
7 isomers of pentazocine, or an analog thereof;

8 (9) less than 6 grams of a substance containing  
9 methaqualone or any of the salts, isomers and salts of  
10 isomers of methaqualone;

11 (10) less than 6 grams of a substance containing  
12 phencyclidine or any of the salts, isomers and salts of  
13 isomers of phencyclidine (PCP);

14 (11) less than 6 grams of a substance containing  
15 ketamine or any of the salts, isomers and salts of isomers  
16 of ketamine;

17 (12) less than 40 grams of a substance containing a  
18 substance classified as a narcotic drug in Schedules I or  
19 II, or an analog thereof, which is not otherwise included  
20 in this subsection.

21 (e) The limited immunity described in subsections (b) and  
22 (c) of this Section shall not be extended if law enforcement  
23 has reasonable suspicion or probable cause to detain, arrest,  
24 or search the person described in subsection (b) or (c) of this  
25 Section for criminal activity and the reasonable suspicion or  
26 probable cause is based on information obtained prior to or

1 independent of the individual described in subsection (b) or  
2 (c) taking action to seek or obtain emergency medical  
3 assistance and not obtained as a direct result of the action of  
4 seeking or obtaining emergency medical assistance. Nothing in  
5 this Section is intended to interfere with or prevent the  
6 investigation, arrest, or prosecution of any person for the  
7 delivery or distribution of cannabis, methamphetamine or other  
8 controlled substances, drug-induced homicide, or any other  
9 crime.

10 Section 10. The Methamphetamine Control and Community  
11 Protection Act is amended by adding Section 115 as follows:

12 (720 ILCS 646/115 new)

13 Sec. 115. Overdose; limited immunity from prosecution.

14 (a) For the purposes of this Section, "overdose" means a  
15 methamphetamine-induced physiological event that results in a  
16 life-threatening emergency to the individual who ingested,  
17 inhaled, injected, or otherwise bodily absorbed  
18 methamphetamine.

19 (b) A person who, in good faith, seeks emergency medical  
20 assistance for someone experiencing an overdose shall not be  
21 charged or prosecuted for Class 3 felony possession of  
22 methamphetamine if evidence for the Class 3 felony possession  
23 charge was acquired as a result of the person seeking or  
24 obtaining emergency medical assistance and providing the

1 amount of substance recovered is less than one gram of  
2 methamphetamine or a substance containing methamphetamine.

3 (c) A person who is experiencing an overdose shall not be  
4 charged or prosecuted for Class 3 felony possession of  
5 methamphetamine if evidence for the Class 3 felony possession  
6 charge was acquired as a result of the person seeking or  
7 obtaining emergency medical assistance and providing the  
8 amount of substance recovered is less than one gram of  
9 methamphetamine or a substance containing methamphetamine.

10 (d) The limited immunity described in subsections (b) and  
11 (c) of this Section shall not be extended if law enforcement  
12 has reasonable suspicion or probable cause to detain, arrest,  
13 or search the person described in subsection (b) or (c) of this  
14 Section for criminal activity and the reasonable suspicion or  
15 probable cause is based on information obtained prior to or  
16 independent of the individual described in subsection (b) or  
17 (c) taking action to seek or obtain emergency medical  
18 assistance and not obtained as a direct result of the action of  
19 seeking or obtaining emergency medical assistance. Nothing in  
20 this Section is intended to interfere with or prevent the  
21 investigation, arrest, or prosecution of any person for the  
22 delivery or distribution of cannabis, methamphetamine or other  
23 controlled substances, drug-induced homicide, or any other  
24 crime.

25 Section 15. The Unified Code of Corrections is amended by

1 changing Section 5-5-3.1 as follows:

2 (730 ILCS 5/5-5-3.1) (from Ch. 38, par. 1005-5-3.1)

3 Sec. 5-5-3.1. Factors in Mitigation.

4 (a) The following grounds shall be accorded weight in favor  
5 of withholding or minimizing a sentence of imprisonment:

6 (1) The defendant's criminal conduct neither caused  
7 nor threatened serious physical harm to another.

8 (2) The defendant did not contemplate that his criminal  
9 conduct would cause or threaten serious physical harm to  
10 another.

11 (3) The defendant acted under a strong provocation.

12 (4) There were substantial grounds tending to excuse or  
13 justify the defendant's criminal conduct, though failing  
14 to establish a defense.

15 (5) The defendant's criminal conduct was induced or  
16 facilitated by someone other than the defendant.

17 (6) The defendant has compensated or will compensate  
18 the victim of his criminal conduct for the damage or injury  
19 that he sustained.

20 (7) The defendant has no history of prior delinquency  
21 or criminal activity or has led a law-abiding life for a  
22 substantial period of time before the commission of the  
23 present crime.

24 (8) The defendant's criminal conduct was the result of  
25 circumstances unlikely to recur.

1           (9) The character and attitudes of the defendant  
2 indicate that he is unlikely to commit another crime.

3           (10) The defendant is particularly likely to comply  
4 with the terms of a period of probation.

5           (11) The imprisonment of the defendant would entail  
6 excessive hardship to his dependents.

7           (12) The imprisonment of the defendant would endanger  
8 his or her medical condition.

9           (13) The defendant was mentally retarded as defined in  
10 Section 5-1-13 of this Code.

11           (14) The defendant sought or obtained emergency  
12 medical assistance for an overdose and was convicted of a  
13 Class 3 felony or higher possession, manufacture, or  
14 delivery of a controlled, counterfeit, or look-alike  
15 substance or a controlled substance analog under the  
16 Illinois Controlled Substances Act or a Class 2 felony or  
17 higher possession, manufacture or delivery of  
18 methamphetamine under the Methamphetamine Control and  
19 Community Protection Act.

20           (b) If the court, having due regard for the character of  
21 the offender, the nature and circumstances of the offense and  
22 the public interest finds that a sentence of imprisonment is  
23 the most appropriate disposition of the offender, or where  
24 other provisions of this Code mandate the imprisonment of the  
25 offender, the grounds listed in paragraph (a) of this  
26 subsection shall be considered as factors in mitigation of the

1 term imposed.

2 (Source: P.A. 91-357, eff. 7-29-99.)

3 Section 99. Effective date. This Act takes effect upon  
4 becoming law.".